

E-FILED - 12/9/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WHITT DEWANE ROBINSON,

Petitioner,

vs.

TOM L. CAREY, Warden,

Respondent.

No. C 06-6960 RMW (PR)

ORDER GRANTING MOTION FOR
EXTENSION OF TIME; DENYING
APPOINTMENT OF COUNSEL

(Docket No. 22)

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Respondent has filed a motion to dismiss. On October 15, 2008, the court granted petitioner an extension of time in which to file an opposition to the motion to dismiss. Before the court is petitioner's second request for an extension of time. The court GRANTS petitioner's second request for an extension of time. Petitioner shall file an opposition to respondent's motion to dismiss **on or before January 24, 2009**. As petitioner will have had more than four months to file an opposition to the motion to dismiss, further requests for an extension of time will not be granted.

Petitioner also requests appointment of counsel. The Sixth Amendment's right to counsel does not apply in habeas corpus actions. Knaubert v. Goldsmith, 791 F.2d 722, 728 (9th Cir.

1 1986). While 18 U.S.C. § 3006A(a)(2)(B) authorizes a district court to appoint counsel to
2 represent a habeas petitioner if “the court determines that the interests of justice so require,” the
3 courts have made appointment of counsel the exception rather than the rule. Appointment is
4 mandatory only when the circumstances of a particular case indicate that appointed counsel is
5 necessary to prevent due process violations. See Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir.
6 1986). Petitioner has thus far been able to adequately present his claims for relief. No
7 evidentiary hearing appears necessary in this case, nor are any other extraordinary circumstances
8 apparent. Accordingly, the court concludes that appointment of counsel is not necessary at this
9 time. Petitioner’s request for appointment of counsel is DENIED without prejudice.

10 This order terminates docket no. 22.

11 IT IS SO ORDERED.

12 Dated: 12/5/08



RONALD M. WHYTE
United States District Judge